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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,526	04/27/2001	Robert Woolley Brunson	016144	3732
30767	7590	10/03/2007	EXAMINER	
KEISLING & PIEPER PLC 1 EAST CENTER STREET, SUITE 217 FAYETTEVILLE, AR 72701			ART UNIT	PAPER NUMBER

DATE MAILED: 10/03/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal
Brief (37 CFR 41.37) in
Ex Parte Reexamination**

Control No.

09/844,526

Examiner

Sikyin Ip

Patent Under Reexamination

BRUNSON, ROBERT

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 10/06/06 and 2/5/07 is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

Patent owner is given a TIME PERIOD of ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this Notification for filing a new complete brief. If a new complete brief that fully complies with 37 CFR 41.37(c) is not timely submitted, the appeal will be dismissed as of the expiration of the period for reply to this Notification. Extensions of this time period may be obtained only under 37 CFR 1.550(c).

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ The brief does not comply with 37 CFR 41.37(c)(1)(v) in that it fails to (1) contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; (2) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (3) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters.
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain, as an appendix thereto (37 CFR 41.37(c)(1)(ix)), copies of the evidence submitted under 37 CFR 1.130, 131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner.
9. ☐ The brief does not contain, as an appendix thereto (37 CFR 41.37(c)(1)(x)), copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief.

10. ☒ Other (including any explanation in support of the above items):
Appellant's statement in Section IV (Status of Amendments) of the instant appeal brief is noted. Since the new added amendment in appealed claim 25 has been denied entry, the appealed claim 25 has not been rejected twice and with the new added limitation "gaseous nitrogen", this instant appealed claim 25 is not the same as the rejected claim 25. Therefore, appellant failed to argue the rejected claim in instant appeal brief.

* If this is a merged proceeding, one copy must be added for each reexamination in addition to the first reexamination.

**SIKYIN IP
PRIMARY EXAMINER**

cc: Requester (if third party requester)